

Bush Declaration Ex. X

TX 7805

1 KEKER & VAN NEST LLP
ROBERT A. VAN NEST - # 84065
2 rvannest@kvn.com
CHRISTA M. ANDERSON - # 184325
3 canderson@kvn.com
DANIEL PURCELL - # 191424
4 dpurcell@kvn.com
633 Battery Street
5 San Francisco, CA 94111-1809
Telephone: (415) 391-5400
6 Facsimile: (415) 397-7188

7 KING & SPALDING LLP
BRUCE W. BABER (pro hac vice)
8 bbaber@kslaw.com
1180 Peachtree Street, N.E.
9 Atlanta, Georgia 30309
Telephone: (404) 572-4600
10 Facsimile: (404) 572-5100

11 Attorneys for Defendant
GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,

16 Plaintiffs,

17 v.

18 GOOGLE INC.,

19 Defendant.
20
21
22
23
24
25
26
27
28

Case No. 3:10-cv-03561 WHA

**GOOGLE INC.'S DEPOSITION CLIPS OF
TERRENCE BARR PLAYED BY VIDEO
DURING TRIAL**

Trial Date: May 9, 2016
Dept: Courtroom 8, 19th Fl.
Judge: Hon. William Alsup

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 7805

CASE NO. 10-03561 WHA

DATE ENTERED _____

BY _____

DEPUTY CLERK

1 Defendant Google Inc. submits the following deposition clips of Terrence Barr played by
2 video on May 16, 2016.

3
4 Dated: May 16, 2016

KEKER & VAN NEST LLP

5
6 By: s/ Robert A. Van Nest
7 ROBERT A. VAN NEST
8 CHRISTA M. ANDERSON
9 DANIEL PURCELL

10 Attorneys for Defendant
11 GOOGLE INC.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Oracle v. Google_2

 **Barr, Terrence (Vol. 01) - 12/09/2015 [2194450-1]**

1 CLIP (RUNNING 00:11:37.739)



BARR_7

41 SEGMENTS (RUNNING 00:11:37.739)

**1. PAGE 11:22 TO 12:04 (RUNNING 00:00:10.747)**

22 Q Good morning, Mr. Barr.
 23 A Good morning.
 24 Q Could you please state your full name for
 25 the record?
 00012:01 A Terrence Barr.
 02 Q And you are currently an employee of
 03 Oracle; is that correct?
 04 A That's correct.

2. PAGE 15:11 TO 15:19 (RUNNING 00:00:21.907)

11 Q How long have you been employed at Oracle?
 12 A Since Oracle acquired Sun.
 13 Q You were at Sun before that?
 14 A That's correct.
 15 Q And that's Sun Microsystems?
 16 A Yes.
 17 Q What is your current job title?
 18 A My current job title is senior principal
 19 technologist and product manager.

3. PAGE 52:07 TO 52:09 (RUNNING 00:00:08.325)

07 Q So at the time Google announced Android,
 08 you knew that Google was using the Java programming
 09 language in Android, correct?

4. PAGE 52:11 TO 52:15 (RUNNING 00:00:06.136)

11 THE WITNESS: I was not aware of that
 12 immediately.
 13 BY MR. MULLEN:
 14 Q Were you aware of it shortly after the
 15 announcement?

5. PAGE 52:17 TO 52:24 (RUNNING 00:00:23.605)

17 THE WITNESS: As I was more aware of
 18 Android through public media, I understood that they
 19 were using -- that Android was using some aspects of
 20 the Java language, but I did not know exactly which
 21 aspects.
 22 BY MR. MULLEN:
 23 Q Did you know that Google was using Java
 24 APIs in Android?

6. PAGE 53:01 TO 53:02 (RUNNING 00:00:06.647)

00053:01 THE WITNESS: Again, the specific details
 02 of Android I was not aware of at the time.

7. PAGE 57:23 TO 58:07 (RUNNING 00:00:31.775)

23 Did you used to have a blog at or around
 24 the time of the Android announcement?
 25 A Yes. That was a personal blog.
 00058:01 Q Where was that blog hosted?
 02 A I don't remember specifically at that time
 03 where that blog was hosted.

CONFIDENTIAL

page 1

Oracle v. Google_2

04 Q Was it on java.net?
 05 A Yes.
 06 Q Was java.net a domain owned by Sun?
 07 A I believe that is correct.

8. PAGE 61:04 TO 61:10 (RUNNING 00:00:17.231)

04 Q Was it part of your job responsibility at
 05 Sun to post and maintain a blog?
 06 A Yes.
 07 Q And why was that part of your job
 08 responsibilities as Sun?
 09 A It was part of the evangelism and
 10 technology outreach responsibilities.

9. PAGE 63:06 TO 63:08 (RUNNING 00:00:09.046)

06 Q Please take a moment to look at
 07 Exhibit 1366, Mr. Barr, and when you've had a
 08 chance, tell me if you recognize it.

10. PAGE 63:09 TO 63:11 (RUNNING 00:00:13.733)

09 A So I recognize the post generally, yes.
 10 Q What do you recognize it to be?
 11 A A post that I made in 2007.

11. PAGE 65:20 TO 65:25 (RUNNING 00:00:23.980)

20 Q So Exhibit 1366 is a blog post that you
 21 authored on November 6th, 2007, correct?
 22 A That's what it looks like.
 23 Q And the blog post is commenting on the
 24 Android announcement; is that correct?
 25 A That's what it appears to be, yes.

12. PAGE 66:01 TO 66:07 (RUNNING 00:00:18.538)

00066:01 Q Okay. And one of the things you say in
 02 the third paragraph down, the end of the third
 03 paragraph, "I commend Google for taking this step."
 04 Do you see that?
 05 A I see that.
 06 Q So you were commending Google for its
 07 announcement of Android, correct?

13. PAGE 66:09 TO 66:12 (RUNNING 00:00:14.532)

09 THE WITNESS: What I was commending Google
 10 on specifically was that they announced a platform
 11 that would be accessible to a wide range of partners
 12 or players in the ecosystem.

14. PAGE 122:20 TO 122:21 (RUNNING 00:00:14.028)

20 If you could take a look at Exhibit 1368.
 21 Just tell me generally whether you recognize

15. PAGE 122:22 TO 122:24 (RUNNING 00:00:03.288)

22 Exhibit 1368, please.
 23 A Yes. It seems to be a series of blog
 24 posts by me.

16. PAGE 123:08 TO 123:11 (RUNNING 00:00:08.603)

08 Is that a blog post that you wrote on
 09 July 10th, 2008, Mr. Barr?
 10 A I'm just finishing reading it.
 11 Q Sure.

Oracle v. Google_2

17. PAGE 123:12 TO 124:04 (RUNNING 00:00:50.991)

12 A Yes. So that looks like a blog post by
 13 me. Yes.
 14 Q Okay. And this is on the same blog that
 15 we were discussing before with Exhibit 1366,
 16 correct?
 17 A Yes, java.net.
 18 Q This was a blog that you wrote as part of
 19 your official job responsibilities at Sun
 20 Microsystems, correct?
 21 A As a technology evangelist, yes. Correct.
 22 Q Looking at page 10, the third paragraph
 23 down -- actually, the first paragraph, you say, "On
 24 my various trips and presentations around the world,
 25 I often get asked to comment on Google's Android
 00124:01 effort. I blogged about Android before and mostly
 02 what I said then still holds true now."
 03 Do you see that?
 04 A Yes.

18. PAGE 133:21 TO 134:16 (RUNNING 00:01:25.384)

21 Q In the third paragraph of the blog post
 22 that we're looking at that's Exhibit 1368, you say,
 23 "I still applaud Google for the effort. The mobile
 24 industry is in the midst of a major shift and
 25 Android is an embodiment of that shift."
 00134:01 What did you mean by "The mobile industry
 02 is in the midst of a major shift and Android is an
 03 embodiment of that shift"?
 04 A Primarily what I meant was that mobile
 05 phone platforms were becoming more widespread, more
 06 generally available, and more flexible. And also,
 07 the value chain was shifting from the carriers and
 08 the operators as the primary monetization point to
 09 other monetization models. And so that's what I
 10 meant by that sentence.
 11 Q At the time you wrote this blog post, was
 12 the mobile industry undergoing a transformation of
 13 sorts?
 14 A In my opinion, yes.
 15 Q And Android was an embodiment of that
 16 transformation; is that correct?

19. PAGE 134:18 TO 134:19 (RUNNING 00:00:06.117)

18 THE WITNESS: Android was a part of that
 19 transformation. It was part of that overall shift.

20. PAGE 134:21 TO 134:22 (RUNNING 00:00:06.385)

21 Q Was Android a leader, in your opinion, in
 22 causing that overall transformation?

21. PAGE 134:24 TO 135:02 (RUNNING 00:00:04.731)

24 THE WITNESS: No, I wouldn't say so.
 25 ///
 00135:01 BY MR. MULLEN:
 02 Q And why would you say that?

22. PAGE 135:04 TO 135:08 (RUNNING 00:00:15.273)

04 THE WITNESS: There were multiple -- as we
 05 spoke before, there were multiple attempts by
 06 different companies and different players to
 07 establish a mobile phone platform. Android at the
 08 time was one of them.

Oracle v. Google_2

23. PAGE 137:16 TO 137:18 (RUNNING 00:00:07.188)

16 Q Regarding Apple, is it fair to say that
 17 Apple transformed the mobile industry?
 18 A Yes.

24. PAGE 137:19 TO 137:20 (RUNNING 00:00:03.740)

19 Q Do you believe that Android transformed
 20 the mobile industry as well?

25. PAGE 137:22 TO 137:23 (RUNNING 00:00:05.165)

22 THE WITNESS: I think I answered that
 23 before. In some ways, yes.

26. PAGE 137:25 TO 138:01 (RUNNING 00:00:04.517)

25 Q Is Apple's IOS operating system
 00138:01 transformative?

27. PAGE 138:03 TO 138:07 (RUNNING 00:00:11.696)

03 THE WITNESS: "Transformative" is a really
 04 vague term, so I'm not sure if I can answer that.
 05 BY MR. MULLEN:
 06 Q In other words, did it change the status
 07 quo in a very significant way when it came out?

28. PAGE 138:09 TO 138:10 (RUNNING 00:00:03.264)

09 THE WITNESS: The status quo of the mobile
 10 industry, yes.

29. PAGE 138:12 TO 138:12 (RUNNING 00:00:02.590)

12 Q Was Android transformative?

30. PAGE 138:14 TO 138:15 (RUNNING 00:00:05.570)

14 THE WITNESS: I think I already answered
 15 that, that I believe in some ways, yes.

31. PAGE 154:21 TO 155:03 (RUNNING 00:00:18.117)

21 Q Do you recognize Exhibit 1371?
 22 A Yes.
 23 Q And what is it?
 24 A It is an email that I sent to Nicholas
 25 Williams, but I do not recollect who that was.
 00155:01 Q And you sent the email November 14th,
 02 2007?
 03 A It looks like it.

32. PAGE 155:14 TO 155:21 (RUNNING 00:00:18.290)

14 Q And you say in this email, "I am keeping
 15 my fingers crossed that Android hits the 'powers
 16 that be' at Sun as a wake-up call that our mobile
 17 Java strategy is failing."
 18 Do you see that?
 19 A Yes.
 20 Q And is that an accurate statement as of
 21 the time you wrote this email, November 2007?

33. PAGE 155:23 TO 156:04 (RUNNING 00:00:31.171)

23 THE WITNESS: So that is in the context of
 24 my opinion that Sun needed to do more in the mobile
 25 space and that we needed to evolve our strategy.
 00156:01 I was not part of the executive-level
 02 discussions that may or may not have happened so
 03 this is my personal opinion in the context of that

Oracle v. Google_2

04 time.

34. PAGE 156:09 TO 156:11 (RUNNING 00:00:06.848)

09 As of November 14th, 2007, you believed
10 that Sun's mobile Java strategy was failing,
11 correct?

35. PAGE 156:13 TO 156:17 (RUNNING 00:00:13.642)

13 THE WITNESS: I would qualify that today
14 and say that the mobile Java strategy at the time
15 needed to evolve faster. I wouldn't use the word
16 "failing" anymore, but that's what I wrote at the
17 time.

36. PAGE 157:15 TO 157:21 (RUNNING 00:00:19.156)

15 Q Prior to the release of Android on
16 November 5th, 2007, did you believe that Sun's
17 mobile Java strategy was failing?
18 A As I said before, I would qualify it and
19 put it differently, but at the time, yes.
20 Q Okay. So that belief at that time had
21 nothing to do with Android, correct?

37. PAGE 157:23 TO 158:18 (RUNNING 00:01:21.235)

23 THE WITNESS: No. So I saw the market --
24 and we spoke about that before -- I saw the market
25 being in a transition. I saw that the market was in
00158:01 need for more powerful and more capable mobile Java
02 platforms.
03 To me, Android was a -- an instance of
04 such a platform that required the mobile Java
05 strategy at Sun to evolve. But it was not the only
06 one.
07 BY MR. MULLEN:
08 Q Okay. What other -- for what other
09 reasons did you believe that the mobile Java
10 strategy at Sun was failing at that time?
11 A The primary reasons -- and I believe we
12 discussed those already -- were that I believe the
13 mobile Java platform needed to evolve to encompass
14 more functionality and provide developers with more
15 features to develop applications, and so that was my
16 primary concern, that -- that we needed to address
17 that and evolve the Java platform, the mobile Java
18 platform.

38. PAGE 158:19 TO 158:21 (RUNNING 00:00:10.330)

19 Q And did you believe that Sun was doing
20 enough to address those issues as of November 14th,
21 2007?

39. PAGE 158:23 TO 159:02 (RUNNING 00:00:13.996)

23 THE WITNESS: In my limited exposure to
24 the conversations at Sun, that's what I believed,
25 but I was not aware of any business or management
00159:01 decisions that might have impacted that. So it was
02 a limited view.

40. PAGE 159:06 TO 159:08 (RUNNING 00:00:18.769)

06 Prior to the release of Android, did you
07 believe that Sun was failing to adequately address
08 problems with its Java mobile strategy?

Oracle v. Google_2

41. PAGE 159:10 TO 159:15 (RUNNING 00:00:21.453)

10 THE WITNESS: So I think I answered that
11 before already. I think the mobile strategy needed
12 to evolve quicker than it did. Sun was very
13 successful in that space. But as every technology
14 platform needs to evolve to keep up with market
15 demands, that was my primary concern.

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 00:11:37.739)

CONFIDENTIAL

page 6